



THE AIDS INSTITUTE

August 17, 2009

Division of Global Migration and Quarantine
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services
Attn: Part 34 NPRM Comments,
1600 Clifton Road, N.E.,
MS E-08
Atlanta, GA 30333

RE: Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance (Docket ID: CDC-2008-0001)

Dear Global Migration and Quarantine Division:

The AIDS Institute, a national nonprofit and nonpartisan agency that promotes action for social change through public policy research, advocacy and education, is pleased to submit comments on the proposed rule that would remove the Human Immunodeficiency Virus (HIV) infection from the definition of communicable diseases of public health significance. **The AIDS Institute is in full support of the proposal, along with the proposal to no longer require an HIV test for people seeking to immigrant into the United States.** Upon finalization of this proposed rule, this chapter in U.S. history of unwarranted discrimination against people with HIV/AIDS will finally be over.

For the past several years, The AIDS Institute has been one of the leading HIV/AIDS organizations working to end the archaic and unjust HIV entry ban, which impacts both people visiting and seeking to immigrant into the country. Since the ban was first instituted in 1987 when the Department of Health and Human Services (HHS) declared HIV as a “dangerous contagious disease,” much has changed in our knowledge and understanding of how HIV is transmitted. As the proposed rule states:

While HIV infection is a serious health condition, it does not represent a communicable disease that is a significant threat for introduction, transmission, and spread to the United States population through casual contact as is the case with other serious conditions such as tuberculosis. An arriving alien with HIV

infection does not pose a public health risk to the general population through casual contact.

CDC has determined that HIV infection is transmitted among individuals in the United States almost exclusively by the following mechanisms: unprotected sexual intercourse with an HIV-infected person, sharing needles or syringes contaminated with HIV, and mother-to-child transmission of HIV before or during birth or through breast feeding. Additionally, HIV can be transmitted through transfusion of blood or blood products infected with HIV...

...The rationale for maintaining HIV infection as an excludable condition is no longer valid based on current medical knowledge and practice, scientific knowledge, and experience which has informed us on characteristics of the virus, the modes of transmission of HIV, and interventions for prevention and further spread of the virus. Indeed, HIV infection is not spread by casual contact, through the air, or from food, water or other objects. An HIV-infected person in a common public setting will not place another individual at risk. HIV is a fragile virus and cannot live for very long outside the body. The virus is not transmitted by mosquitoes, or through day-to-day activities such as shaking hands, hugging, or a casual kiss. HIV infection cannot be acquired from a toilet seat, drinking fountain, doorknob, eating utensils, drinking glasses, food, or pets.¹

The United States Congress recognized this injustice and included a provision in the United States Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008 to remove from the Immigration and National Act language that prohibits HIV-positive non-citizens from entering the U.S. without a visa waiver. President George W. Bush signed this legislation into law on July 30, 2008. While the Congress removed the statutory ban, HHS still included HIV on a list of communicable diseases of public health significance. With finalization of the rule proposed by the CDC, HIV would be removed from that list. The United States would finally recognize the full human rights of people with HIV so that they can freely move in and out of the country on the same level as any one else and no longer be treated like people with highly communicable diseases.

Removing HIV from the list of communicable diseases of public health significance will also help reduce stigma and discrimination often associated with people living with HIV/AIDS. It will encourage people living with HIV/AIDS to no longer hide their infection and therefore, access care and treatment and help improve their health and well-being. It will help businesses in the United States attract qualified and talented employees and increase travel and tourism.

Lifting of the HIV entry ban will also pave the way for the United States to once again host an International AIDS Conference. While the U.S. is the world's leader in fighting HIV/AIDS, the country has not been able to host the prestigious conference since 1990. The International AIDS Society recently announced they would like to hold the 2012

¹ **Federal Register** / Vol. 74, No. 126 / Thursday, July 2, 2009 / Proposed Rules / pp. 31800-31801

conference in Washington DC *only if the HIV entry ban is lifted*. Holding the conference in Washington DC would not only highlight the U.S. contribution to the global AIDS epidemic, but shine a spotlight on the domestic epidemic. It is estimated that 30,000 people from around the world would attend.

While The AIDS Institute fully supports the CDC's proposal to no longer require aliens to be required to have an HIV test, we agree that all aliens should be knowledgeable of their HIV status and believe the CDC guidelines that recommend HIV testing be followed.

Finally, The AIDS Institute would like to comment on the proposed possible costs outlined by CDC in the proposed rule by lifting the entry ban. We believe it should be made clear that the cost estimates described in the proposed rule will not be solely borne by the United States government. In fact, there are numerous laws in place that will guarantee that the costs will not be borne by the public healthcare system. The proposed rule estimates that there are 1 million aliens entering the U.S annually and that 4,000 would have HIV. The cost estimates in the analysis only examine the potential costs for people with HIV. While this makes sense since the proposed rule only addresses HIV, it should be stated that the 996,000 other aliens who do not have HIV may have or may have in the future chronic illnesses and diseases which will have associated costs. We do not believe the costs of only people with HIV should be considered.

The AIDS Institute fully supports the removal of HIV from the definition of "communicable diseases of public health significance" as well as to remove references to "HIV" from the scope of examinations in its regulations.

We applaud the CDC for proposing an end of this relic of the past, which has prevented people with HIV/AIDS from traveling and immigrating to the United States for the past twenty-two years. We urge you to finalize this regulation as soon as possible so this injustice against people with HIV/AIDS will soon end and the United States will join with the rest of the world in opening its borders to people with HIV/AIDS free of discrimination.

If you have any questions or comments, please contact [REDACTED] of The AIDS Institute at [REDACTED] or via e-mail at [REDACTED]. Thank you very much.

Sincerely,

[REDACTED]
Executive Director